

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re application of: | Bargnes et al. | Confirmation No.: | 4629 |
| Serial No.: | 10/705,359 | Group Art Unit: | 3623 |
| Filed: | November 10, 2003 | Examiner: | Chong Cruz, Nadja N. |
| Attorney Docket No.: | IN-5398CIP | | |
| Title: | METHOD OF DETERMINING AN EFFICIENCY OF A REPAIR PROCESS | | |

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Applicant hereby requests reconsideration of the Official Action mailed on January 12, 2009. In particular, Applicant contends that the Examiner has misinterpreted the newly cited prior art such that this prior art is merely cumulative of the currently cited prior art. The rejections should therefore be withdrawn and the application should proceed to allowance.

As previously noted by the Applicant, the Examiner has properly determined that some limitations claimed in claim 1 are know in the industry. However, the Examiner has failed to demonstrate that the combination of determining the total shop production hours and calculating the production process efficiency for a completed repair process by dividing the estimated total labor hours by the *total shop production hours* is not shown or contemplated by the prior art of record.

The Examiner previously indicated that Edwards disclosed a similar feature. In response, the Applicant respectfully submitted that the Examiner misinterpreted Edwards and the Examiner has now withdrawn this rejection.

In the Official Action mailed on January 12, 2009, the Examiner has uncovered a new reference that purportedly discloses the novel and non-obvious features of the claimed invention. The new reference is a research report sponsored by the U.S. Air Force and authored by Baldwin et al., which is entitled “Transfer Pricing for Air Force Depot-Level Reparables”. On page 7 of the January 12th Official Action, the Examiner contends that Baldwin et al. discloses and teaches of developing an efficiency using total shop production hours. The Examiner contends that the following footnote in Baldwin et al. provides a basis for this teaching:

[t]he DLE for a repair shop is the total standard hours for all work in the shop divided by the actual hours for all work in the shop, that is, an average efficiency.

It is respectfully submitted that the Examiner is incorrect and has misinterpreted Baldwin et al. Baldwin et al. actually measures the same variables and produces the same efficiency as the other cited prior art, such as Edwards, and will in turn produce erroneous measurements that the subject invention is specifically designed to eliminate.

Turning to pages 16 and 17 of Baldwin et al., the DLE, which stands for Direct Labor Efficiency, is a variable of the DPAH, which stands for Direct Product Actual Hours. As stated in Baldwin et al., the DPAH is an estimate of the actual time spent performing a direct labor task. The key issue that was apparently overlooked by the Examiner is that both of the variables used to calculate the DLE are related to the work, NOT the shop. Note the definition of the term DLE above, which states the DLE is the “total standard hours for all work in the shop divided by the actual hours for all work in the shop” (emphasis added). As such, the DLE calculates hours of the **work only** and does NOT provide any measurement or calculation taking into

consideration the hours of the shop. In fact, there is no mention or teaching of determining the total shop production hours based on when the repair shop opens and closes and certainly there is no mention or teaching of using such a variable in an efficiency calculation. As such, the process of Baldwin et al. will not measure the particular production process efficiency that the claimed invention is designed to produce.

Accordingly, the newly cited Baldwin et al. reference is merely cumulative of the previously cited prior art that was previously overcome. As such, the application is believed to be in condition for allowance and it is respectfully submitted that the Examiner should withdraw the current rejections.

Although no fees are believed due, the Commissioner is hereby authorized to charge any fees or credits to Deposit Account No. 08-2789.

Respectfully submitted,

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